
The Tri-Department Plan for Stage II of Family Reunification

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DEPARTMENT OF HOMELAND SECURITY
DEPARTMENT OF JUSTICE

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Stage II Summary

The Departments of Health and Human Services (HHS), Homeland Security (DHS), and Justice (DOJ) are working rapidly to reunify children and their parents who are class members under the orders by District Judge Dana Sabraw of the U.S. District Court for the Southern District of California.

Following successful reunification of eligible children under 5 with parents in the United States as of July 12 (Stage I), the three departments are working to reunify all eligible children over the age of 5 by July 26 (Stage II).

The two stages together include all eligible parents who are or were in DHS custody, and all eligible children in HHS custody, who may have been separated at the border.

Both stages include children and parents who were separated at the border by DHS to allow for the parents' prosecution under the Zero Tolerance policy, as well as children and parents separated at the border for other reasons.

The key steps in the tri-department plan for reunifying a parent and child in government custody include:

BACKGROUND CHECKS

HHS reviews a summary of the DHS-performed criminal background check on the adult.

CONFIRM PARENTAGE

HHS reviews its case file to make a determination of parentage or to identify red flags of possible non-parentage or trafficking.

ASSESS CHILD SAFETY

HHS reviews its case file to make a determination of fitness and safety or to identify red flags that the adult is unfit or poses a danger to the child.

PARENT INTERVIEW

Absent red flags, HHS conducts an in-person interview of any adult in DHS custody at a DHS reunification location.

REUNITE FAMILY

Absent red flags, HHS moves the child to the reunification location, where the child is turned over to DHS custody and reunification is completed by DHS.

In cases where red flags have been raised, HHS engages in further inquiry as appropriate. HHS will not reunify absent a determination of parentage, fitness and safety.

For parents who have been separated from children and who are no longer physically in ICE custody, HHS will coordinate with the parents directly.

The departments expect to modify the current plan as appropriate based on operational considerations and any new instructions from the court.

This document is intended to educate the public about the detailed interdepartmental reunification plan presented to the court. It does not represent new policy.

What Is the Objective and Who Will Be Reunified in Stage II?

In the Friday, July 13, filing with Judge Sabraw, HHS identified 2,551 minors 5 to 17 years of age in the department's custody who could have been separated from a parent by DHS at the time of entry into the United States and therefore could be eligible for reunification with a parent in DHS custody.

This number represents the total possible 5-and-up cohort of minors who could be subject to the court order. Based on past experience, it is likely to include a significant number of minors who are not eligible for reunification under the court's order.

Not all of the 2,551 minors in HHS care will necessarily be reunified, because some adults claiming parentage may not actually be the parents or may be unfit or a danger to the children.

As the departments saw with the minors covered by the court case who are under age 5, and as the court has acknowledged, there are circumstances that preclude a minor from being reunited with a purported parent, such as when the adult is determined not to be the parent, would be an unfit parent or present a danger to the child, or is in federal or state custody elsewhere due to criminal activity.

Who Is Participating in Stage II?

HHS

ORR: Office of Refugee Resettlement, which funds and oversees grantees that care for unaccompanied alien children, vets potential sponsors, and discharges children to sponsors.

ORR GRANTEES: HHS-funded nonprofit and state grantees who care for unaccompanied alien children.

ASPR: Office of the Assistant Secretary for Preparedness and Response, HHS's emergency management arm.

IMT: ASPR's Incident Management Team, a group of highly qualified emergency operations specialists, staff from ORR, and liaison officers from DHS.

DHS

ICE: U.S. Immigration and Customs Enforcement, the U.S. interior immigration enforcement agency.

The Five Key Steps in the Reunification Process

Step 1

DHS PREPARES AND HHS REVIEWS A CRIMINAL BACKGROUND SUMMARY ON THE ADULT IN QUESTION.

HHS reviews and assesses summaries of criminal background check information from the National Crime Information Center, provided by ICE, for criminal history. ICE provides further information on whether the criminal concerns involve convictions or charges, and provides any additional necessary information.

During the reunification of eligible under-5 children, HHS discovered criminal charges or convictions including child cruelty, child smuggling, narcotics crimes, robbery, and a warrant for murder.

Step 2

HHS REVIEWS ITS CASE FILE TO FIND PARENTAGE OR IDENTIFY RED FLAGS

The case file includes the case management records for the child, which are kept on the online portal maintained by ORR.

To find parentage or identify red flags HHS reviews:

- Any notes in the case file indicating that the child and adult arrived together at the border presenting as a family.
- Any notes in the case file that bear on the adult's claim of parentage.
- Any notes in the case file documenting the daily interactions between ORR staff and the child during the child's time in ORR care, such as speaking to the child or observing any communications between the adult and child.
- Any documents (such as birth certificates) the adult submitted concerning the identity of the adult and child.
- Any verification HHS has been able to receive from the consulate or other source concerning those documents.
- Any DNA test results that are available.

The departments anticipate that, in most cases, this constellation of information will demonstrate that the adult is the parent.

In some cases, however, there may be red flags suggesting potential non-parentage or trafficking, in which case DNA testing or consular documents may be used to resolve the concern.

Step 3

HHS REVIEWS ITS CASE FILE TO FIND PARENTAL FITNESS AND SAFETY OR IDENTIFY ANY RED FLAGS THAT MAY PRESENT SAFETY OR SECURITY CONCERNS FOR THE CHILD.

HHS reviews the case file to confirm that the available records raise no questions regarding parental fitness or child safety. The available records for the adult will typically consist of the child's case file, plus any records collected by the IMT or the HHS field teams on or before July 10, 2018, plus any records consensually provided by the purported parent.

If this process raises concerns regarding parental fitness or child safety, then HHS conducts further assessment within the parameters of the court's orders.

Further, if the process triggers a home study under the Trafficking Victims Protection Reauthorization Act of 2008, HHS conducts a home study before reunification. A home study shall be conducted for:

- A child who is a victim of a severe form of trafficking in persons.
- A special needs child with a disability.
- A child who has been a victim of physical or sexual abuse under circumstances that indicate that the child's health or welfare has been significantly harmed or threatened.
- A child whose proposed sponsor clearly presents a risk of abuse, maltreatment, exploitation or trafficking to the child based on all available objective evidence.

Various issues may lead HHS to determine that a parent is unfit or presents a danger to the child and is therefore ineligible for reunification, including:

- A parent is in the custody of the U.S. Marshals Service or in a state jail for other offenses.
- A parent is being treated for a communicable disease.
- A child has already been reunified with the other parent.
- A parent has a criminal record and may pose a safety risk to the child.

Step 4

ABSENT RED FLAGS IN THE PROCESS ABOVE, ADULTS IN ICE CUSTODY ARE TRANSPORTED TO REUNIFICATION LOCATIONS RUN BY ICE, WHERE HHS INTERVIEWS THEM.

HHS field teams conduct further interviews of the adults at reunification locations, supported by ICE staff.

During the interviews, HHS seeks verbal confirmation of parentage and the desire to reunify.

If red flags are raised in the interview, reunification is halted and HHS conducts further inquiry, as appropriate. Absent red flags, HHS will transfer the child to ICE custody, completing the reunification.

ICE reunification locations will operate for as long as necessary to efficiently reunify children with parents.

DHS incurs all costs for transporting adults in ICE custody to the reunification location, while HHS incurs all costs of transporting children to the ICE reunification location.

Step 5

THE IMT OVERSEES A LOGISTICAL PLAN EXECUTED BY ORR TO MOVE THE CHILD TO THE RELEVANT ICE REUNIFICATION LOCATION, WHERE ICE FACILITATES PHYSICAL REUNIFICATION.

Within six to 48 hours of favorable completion of the interview process, HHS typically facilitates transporting the child, with accompanying supervision, using staffing consistent with state licensure standards and ORR procedures.¹

ORR grantees transport the child, the child's possessions, and, if applicable, a supply of necessities (such as medications) along with the child to ICE custody. HHS incurs the cost of this transportation and maintains continuous oversight of children during transit.

HHS completes custody transfer to ICE and provides ICE with documentation confirming a determination of parentage and that the parent does not present a danger to the child. ICE coordinates with a contractor to transport the family to a pre-identified release site.

For eligible parents in the United States who are not in ICE custody, HHS coordinates with those parents directly on the location and logistics of reunifications.

¹ DHS or HHS may sometimes facilitate the transporting of the adult to the child for reunification, as necessary to comply with court orders or complete reunification under exigent circumstances.

Information Sharing Procedure

HHS creates a list of “cleared for interview” adults for reunification and updates the list on a daily basis. The list is then provided to ICE each day.

ICE will notify HHS immediately if an adult uses a court-approved form to make an election to be removed without the child from whom they were separated. All supporting paperwork will be forwarded to HHS or be made immediately available through electronic links between HHS and ICE.

Remaining Process for Under-5s

All children under age 5 who were eligible to be reunified under the court order with a parent in the United States as of July 12 were reunified by July 12.

Children under 5 years of age who have not been reunified fall into one of two categories, and will be handled in the following ways going forward:

1. Reunification could not occur due to lack of parentage, parental unfitness, or danger to the child. In these cases, HHS will continue treating the children as it does any child in its custody, endeavoring to find a parent, family member, or other suitable sponsor who can receive the child.
2. Reunification was not possible as of July 12 for various reasons, such as the parent already having been deported, having been in the U.S. Marshals Service or local law enforcement custody for other offenses, having a communicable disease whose treatment may be successful, or having unsafe living arrangements that might be remedied. In these cases, the departments will continue to seek reunification when it becomes possible.

The Five-Step Process for Reunification

